

# Chapter 1 - General Provisions

## **1.1 TITLE**

The regulations of this Land Use Code shall be officially known and cited as the “Land Use Code of Dodge County, Wisconsin,” although it may be referred to hereafter as the “this Code” or “the Code.”

## **1.2 AUTHORITY**

**1.2.1** This Code is adopted pursuant to the enabling authority contained in Wisconsin Statutes (Wis. Stat.) generally, and specifically:

**1.2.1.A** 59.70(5) (Sanitary Ordinance);

**1.2.1.B** 59.69, 66.0404, 66.0406; (Mobile Tower Siting and Radio Broadcast Service Facility Overlay District Regulations; Land Spreading Ordinance);

**1.2.1.C** 59.69 (Zoning Ordinance);

**1.2.1.D** 59.69 (Highway Setback Ordinance);

**1.2.1.E** 59.692 (Shoreland Wetland Zoning Ordinance);

**1.2.1.F** 87.30 (Floodplain Ordinance);

**1.2.1.G** 236.45 (Subdivision Ordinance); and

**1.2.1.H** 114.136 (Airport Ordinance); and

**1.2.1.I** 295.13(1), 59.51, NR 135.32 (Non-Metallic Mining Reclamation Ordinance); and

**1.2.1.J** 703.115 (Condominiums); and

**1.2.1.K** 59.693 (Construction site erosion control and stormwater management).

**1.2.1.L** 59.69, 66.0401, 66.0403 (Wind Energy System Overlay District)

**1.2.2** Whenever any provision of this Code refers to or cites a section of the Wisconsin Statutes or Administrative Code and that section is later amended or superseded, the Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## **1.3 PURPOSE**

The purpose of this Code is to promote and protect the public health, safety, peace, comfort, and general welfare while allowing for cost-saving efficiencies. The Code is a comprehensive, unified set of regulations that govern the subdivision of land, the development of land, and the use of land. This Code is adopted for the following particular purposes:

**1.3.1** To implement the goals and policies of the Dodge County Comprehensive Plan, approved and adopted by the County Board of Supervisors; as well as other goals and policies adopted by the County Board of Supervisors related to growth and development.

**1.3.2** To protect and improve the established community character of Dodge County and the social and economic stability of the existing land uses within the County.

**1.3.3** To promote good planning practice and to provide a regulatory mechanism which includes appropriate performance standards for development within the County.

**1.3.4** To prevent the adverse impacts of development on sensitive natural resources and the availability of water, water quality, roads and transportation, floodplains, wetlands, areas of shallow soils, and steep slopes in critical areas of the County.

**1.3.5** To encourage a more efficient use of land and public services and to reflect changes in technology of land development.

**1.3.6** To promote alternative land development practices which will otherwise promote the public health, safety, and general welfare.

**1.3.7** To reduce sprawling development that results in the inefficient use of irreplaceable natural resources.

#### **1.4 APPLICABILITY AND JURISDICTION**

**1.4.1** The provisions of this Land Use Code shall apply to all development and the use of all structures, lands, and waters within the boundaries of Dodge County that lie outside the limits of incorporated cities and villages. In addition, the zoning provisions of this code and the Official Zoning Map shall not include lands within Towns that have not adopted the Zoning Ordinance of Dodge County, Wisconsin.

**1.4.2** The following sections of this Code shall only be in effect in those Towns which have adopted the referenced separate Ordinances in accordance with Wis. Stat. Chapter 59.69:

**1.4.2.A** Highway Setback Overlay District, Section 4.6

**1.4.2.B** Land Spreading of Petroleum Contaminated Soil Overlay District: Section 4.8

**1.4.3** Use of all structures and land owned by the County or by County agencies, departments, districts, or utilities, shall comply with all requirements of this Code, except that the County or County agency, department, district, or utility may be exempt from the provisions of this code when an emergency exists such that it is impossible to submit to the normal procedures and requirements of this Code and quick and instant action is necessary to secure the public health, safety, or welfare. The County Board of Supervisors shall ratify such exemption after-the-fact at its next regularly scheduled meeting, and shall base its ratification on specified findings of fact related to the emergency involved.

**1.4.4** No structure, land or water, shall hereafter be used and no structure, or part thereof shall hereafter be located, erected, moved, reconstructed, extended, converted or structurally altered without a Land Use Permit and/or a Conditional Use Permit, if required, except as allowed in Section 1.4.4.A through 1.4.4.D, without full compliance with the provisions of this Code and all other applicable County and State Regulations.

**1.4.4.A** A Land Use Permit shall not be required for incidental repairs and normal maintenance of structures unless such repairs or maintenance are expressly prohibited by this Code. For purposes of this section, "incidental repairs" shall mean repairs that are subordinate and minor in significance. Incidental repairs and normal maintenance repairs are not considered a modification or addition to an existing structure. Incidental repairs and normal maintenance include painting, decorating, paneling, re-roofing, or re-shingling a roof, replacing siding, replacement of doors, windows and other non-structural components.

**1.4.4.B** A Land Use Permit shall not be required for the temporary signs specifically listed in Section 8.9.2 and 8.9.3.

**1.4.4.C** A license issued in accord with the provisions of Section 4.2 - Overlay District Provisions Regulating Adult Oriented Establishments shall be required to establish, operate or maintain an adult oriented use within those Towns that have adopted the County Land Use Code.

**1.4.4.D** A Land Use Permit shall not be required for the construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the project may include limited filling, flooding, draining, dredging, ditching, tiling or excavating provided all of the following apply:

1. The utility is installed totally within the road right-of-way;
2. The Department of Natural Resources has issued all required permits and approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283 Wis. Statutes;
3. The applicable Highway Department has issued all required permits and approvals authorizing the construction or maintenance work within their respective road right-of-way;

4. The project is conducted in a manner that employs best management practices to infiltrate or otherwise control storm water runoff from the facility;
5. Any significant adverse impacts on the natural environment are mitigated to the maximum practical extent.

**1.4.4.E** A Land Use Permit and/or a Conditional Use Permit shall not be required for the installation, construction, placement, operation, replacement or maintenance of a small wireless facility unless the small wireless facility is to be located within the jurisdictional boundaries of the Dodge County Airport Zoning Ordinance.

## **1.5 OFFICIAL ZONING MAP**

### **1.5.1 Official Zoning Map**

The Official Zoning Map designates the location and boundaries of the various zoning districts within Dodge County and is incorporated herein by reference. The Official Zoning Map shall be kept on file in the Department and available for public inspection during normal business hours.

### **1.5.2 Incorporated by Reference**

The Official Zoning Map and all the notations thereon are hereby incorporated by reference and made part of this Code. The signed copy of the Official Zoning Map containing the zoning districts designated at the time of the adoption of this Code shall be maintained without change on file in the office of the County Clerk.

### **1.5.3 Changes to Map**

Changes made in district boundaries or other matters portrayed on the Official Zoning Map shall be made in accordance with the provisions of this Code. Changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Board of Supervisors with an entry on the Official Zoning Map. No amendment to this Code which involves matter portrayed on the Official Zoning Map shall become effective until after such change entries shall be made on the map.

### **1.5.4 Mapping Disputes**

**1.5.4.A** The Land Use Administrator shall have the authority to interpret the map and determine where the boundaries of the different zoning districts fall, if in dispute.

## **1.6 INTERPRETATION AND CONFLICT**

### **1.6.1 Meaning and Intent**

All provisions, terms, phrases, and expressions contained in this Code shall be construed according to the stated purposes set out in Section 1.3 of this Code.

### **1.6.2 Text Controls**

In case of any difference of meaning or implication between the text of this Code and any heading, drawing, table, illustration, or figure, the text shall control.

### **1.6.3 Authority for Interpretation**

The Land Use Administrator is responsible for interpreting the text of this Code in accordance with the standards set forth in this section and applicable Code standards, criteria, and requirements. Disagreements with interpretations of the Land Use Administrator may be appealed to the Board of Adjustment.

### **1.6.4 Statutory References**

All references to state law in this Code refer to Wisconsin Statutes (1997-98), as amended.

### **1.6.5 References to Other Regulations, Publications, and Documents**

Whenever reference is made to a resolution, ordinance, statute, rule, regulation, or document, it shall be construed as a reference to the most recent edition of such resolution, ordinance, statute, rule, regulation, or document, unless otherwise specifically stated.

### **1.6.6 Computation of Time**

Periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business days. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the County, the deadline or required date of action shall be the next workday.

### **1.6.7 Delegation of Authority**

Whenever a provision appears requiring the head of a department or another officer or employee of the County to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

## **1.7 RELATIONSHIP TO OTHER REGULATIONS AND PRIVATE AGREEMENTS**

### **1.7.1 Conflicts with Other Regulations**

When the provisions of this Code are inconsistent with one another or when the provisions of this Code conflict with provisions found in other adopted ordinances or regulations, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

### **1.7.2 Relationship with Private-Party Easements, Covenants, or Agreements**

This Code is not intended to interfere with, abrogate, or annul any easements, covenants, or agreements between parties, provided that wherever this Code imposes a greater restriction upon the use of buildings or land, upon the location or height of buildings or structures, or upon requirements for open space than those that are imposed or required by such easements, covenants, or agreements between parties, the provisions of this Code shall govern. In no case shall the County be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

### **1.7.3 Repeal of Inconsistent or Conflicting Provisions**

All other ordinances or parts of ordinances of the County inconsistent or conflicting with this Code, to the extent of the inconsistency only, are hereby repealed or modified.

## **1.8 LIABILITY FOR DAMAGES**

This Land Use Code shall not be construed to hold the County or its authorized representatives responsible for any damage to persons or property by reason of the inspection or re-inspection authorized in this Code.

## **1.9 SEVERABILITY**

It is the legislative intent of the County Board of Supervisors in adopting this Land Use Code that all provisions shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the County. If any Section, subsection, sentence, clause or phrase of this Code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Code. The County Board of Supervisors hereby declares that it would have passed this Code and Section, subsection, sentence, clause and phrase, thereof, irrespective of the fact that any one or more Sections, subsections, sentences, clauses or phrases be declared invalid.

## **1.10 EFFECTIVE DATE / TRANSITIONAL PROVISIONS**

### **1.10.1 Effective Date**

This Code shall be effective on --- March 21, 2000.

## **1.10.2 Final Approval**

### **1.10.2.A Permits**

Any building, structure, or development for which a permit was issued prior to the effective date of this Code may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this Code. If construction is not commenced or completed according to the applicable permit terms, the Land Use Administrator may, for good cause shown, grant an extension of up to one year for such construction under the terms of the previously applicable ordinance(s). If the building or structure is not completed within the time allowed under the original permit or any extension granted, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this Code.

### **1.10.2.B Plats**

Any subdivision for which a Preliminary Plat or Final Plat was approved prior to the effective date of this Code may, at the applicant's option, be completed according to the approved plat and other applicable permits and conditions, even if the subdivision does not fully comply with the provisions of this Code. If the subdivision is not completed within the time requirements established by prior ordinance or within any schedule included in the approval of the plat, the Land Use Administrator may grant one extension of not more than one year for the completion of the subdivision under the terms of the previous ordinance(s). If the subdivision is not completed within the time required under the original approval or any extension granted, then the subdivision may be completed only in compliance with this Code.

### **1.10.2.C Minor Land Division**

Any minor land division for which tentative approval was granted prior to the effective date of this Code may, at the applicant's option, be completed according to the plan and other applicable permits and conditions, even if the division does not fully comply with the provisions of this Code. If the division is not completed within the time requirements established by prior ordinance or within any time schedule included in the approval of the plan, the Land Use Administrator may grant one extension of not more than one year for the completion of the division under the terms of the previous ordinance(s). If the division is not completed within the time required under the original approval or any extension granted, then the division may be completed only in compliance with this Code.

## **1.10.3 Complete Applications**

All projects for which a complete application was submitted and accepted by the County prior to the effective date of this Code shall be exempt from complying with all provisions of this Code, except the development standards of Chapter 8. Such projects shall comply with the standards of Chapter 8 to the maximum extent feasible, so long as application of the standards does not result in substantial hardship or preclude development altogether.

## **1.10.4 Violations Continue**

Any violation under previous ordinances repealed by this Code shall continue to be a violation under this Code and be subject to penalties and enforcement under this Code, unless the use, development, construction, or other activity complies with the provisions of this Code.

## **1.10.5 Legal Nonconformities Under Previous Ordinances**

Any legal nonconformity under any previous ordinances repealed by this Code is also a legal nonconformity under this Code, as long as the situation that resulted in the nonconforming status under the previous ordinances continues to exist.